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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,201	08/02/2001	Gregory Maurice Plow	S/TL920000037US1	1396
55436	7590	03/19/2008		
ROGITZ & ASSOCIATES 750 B STREET SUITE 3120 SAN DIEGO, CA 92019			EXAMINER LASTRA, DANIEL	
			ART UNIT 3688	PAPER NUMBER
			MAIL DATE 03/19/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/922,201

Applicant(s)

PLOW ET AL.

Examiner

DANIEL LASTRA

Art Unit

3688

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 8-12, 14, 16, 19-22, 26, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 8-12, 14, 16, 19-22, 26, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notices of Informal Patent Application
- 6) ☐ Other: _____

1. Claims 1, 2, 4, 8-12, 14, 16, 19-22, 26, 29 and 30 have been examined. Application 09/922,201 (SYSTEM, METHOD, AND COMPUTER PROGRAM PRODUCT FOR SELECTIVELY DISPLAYING INTERNET ADVERTISEMENTS) has a filing date 08/02/2001.

Response to Amendment

2. In response to Non Final Rejection filed 12/07/2007, the Applicant filed an Amendment on 12/11/2007, which amended claims 1, 11, 22, and 30.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 8, 9, 11, 12, 14, 16, 19, 20, 22, 26, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Rakavy et al (U.S. 5,913,040).

As per claims 1, 11, 12 and 22 Rakavy teaches:

A computer-method for selectively displaying Internet advertisements, comprising the acts of:

allowing a user to choose at least one advertisement channel from an advertisement channel menu presenting plural advertisement channels;

displaying advertisements at least partially based on what channel is selected by the user (see column 3, lines 1-44; column 9, line 15 – column 10, line 12);

displaying a menu of user definable advertising attributes (see column 9, lines 15-50; column 10, lines 21-40), wherein the user definable attributes include at least one of: city, zip code, retailers, distance of travel to a retailer, retail only, or wholesale only (see column 9, lines 35-40; retailers such as "fast food vendors")

As per claims 2, 20 and 30, Rakavy teaches:

the act of allowing the user to create an advertisement window in which advertisements are displayed (see column 11, lines 45-59).

As per claims 4 and 14, Rakavy teaches:

allowing the user to establish the values of the user definable attributes (see column 7, lines 42-67).

As per claims 8, 16 and 26, Rakavy teaches:

the act of displaying at least one advertisement corresponding to a user selected advertisement channel (see column 11, lines 45-57).

As per claims 9, 19 and 29, Rakavy teaches:

wherein the advertisement channels menu includes at least one of: a travel advertisement channel, a food advertisement channel, an automotive advertisement channel, a clothing advertisement channel, a music advertisement channel, a movie advertisement channel, an antiques advertisement channel, a hardware advertisement channel, a sporting goods advertisement channel, a housewares advertisement channel, an art supplies advertisement channel (see column 9, lines 34-40).

4. Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rakavy et al (U.S. 5,913,040) in view of Smith (U.S. 6,615,248).

As per claims 10 and 21, Rakavy fails to teach wherein the advertisements are displayed at a device that receives Internet content and television broadcast content. Smith teaches a system that displays television programs and Internet content in a user's browser (see figures 4 and 5; column 7, lines 25-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Rakavy would use the system taught by Smith, to display television programs and Internet information in a browser. This feature would allow users to view television programs, while simultaneously searching for information via the Internet.

Response to Arguments

5. Applicant's arguments filed 12/11/2007 have been fully considered but they are not persuasive. The Applicant argues that sending another action in order to correct an error without SPE approval is not permitted by the MPEP. The Examiner answers that MPEP 1207.04 Reopening of Prosecution After Appeal recites "The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed". The Office Action filed 12/07/2007 was sent to correct a typo error and not to enter a new ground of rejection, therefore, the rule cited in MPEP 1207.04 do not apply.

The Applicant argues that Rakavy does not teach user-defined attributes. The Examiner answers that Rakavy teaches the user attribute "retailer" in col 9, lines 35-40 when Rakavy recites "Fast food vendors". Therefore, contrary to Applicant's argument, Rakavy teaches Applicant's claimed invention.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Art Unit: 3622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/
Art Unit 3688
March 7, 2008

/Yehdega Retta/

Primary Examiner, Art Unit 3622